

FILED

April 19, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE
THE LICENSE OF

Administrative Action

CONSENT ORDER

DAKSHKUMAR B. PATEL, M.D.

TO PRACTICE MEDICINE AND
SURGERY IN THE STATE OF
NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners upon notice from the Physician's Health Program ("PHP") of the State of New Jersey that respondent relapsed in his chronic use of alcohol. Respondent has a long history of alcohol abuse starting with drinking on a monthly basis in medical school and escalating in 1988 to drinking until intoxication. In 1991 he was convicted of ~~driving while intoxicated~~ ^{OF CARELESS DRIVING} in which there was a fatality of a college student. In 1997 he was ~~again~~ arrested for

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driving while intoxicated and he entered the PHP. He admits to starting to drink again in August of 2003 and was arrested a second time in October 2003 for driving while intoxicated. At that time he' contacted the PHP and has represented that he has voluntarily refrained from practice since that incident. He participated in an inpatient program at Clear Brook Lodge and has been attending four to five AA meetings per week and is enrolled in an aftercare group with Dr. Arnold Washton and is seen by the PHP on a monthly basis.

After a review of the matter including respondent's testimony before a Committee of the Board, the Board found that despite having acknowledged long term abuse of alcohol in the past, respondent has now demonstrated sufficient rehabilitation, fitness and ability to practice medicine with appropriate safeguards embodied in this public Order. Furthermore, the Board considered that he has refrained from engaging in the practice of medicine for a period of five (5) months pursuant to an agreement he entered into with the PHP upon his last relapse. Additionally the PHP supports his continued licensure at this time and respondent represents that he is willing to comply with the conditions set forth in this Order.

The parties being desirous of resolving this matter, and the Board finding that the within Consent Order is adequately protective of the public interest;

IT IS ON THIS 19th DAY OF April, 2004,

ORDERED:

1. That the license of Dakshkumar B. Patel to practice medicine in the State of New Jersey shall be subject to the following conditions:

- A. Respondent shall maintain absolute abstinence from all psychoactive substances and alcohol except upon prescription from a treating physician for a documented medical condition with notification to the Executive Director of the PHP.
- B. Respondent's license shall be on probation for a period of five years from entry of this Order.
- C. Respondent shall participate in the Physicians Health Program (PHP) for a minimum of five years from the date of this Order. The Board shall not entertain an application for modification of this Order for a period of five (5) years. Such participation shall include:
 - i. Documented attendance at a minimum of 3 A.A./N.A. (12-step) meetings per week.
 - ii. Directly witnessed random urine monitoring to include screens for frequently abused drugs to be conducted by and under the procedures of the Physicians Health Program at a minimum of once per week.
 - iii. Respondent shall make himself available for the testing outlined in paragraph ii above upon advance telephone notice. The Physicians Health Program shall make every effort, when practical, to provide Respondent with 24 hours notice of testing, but failure to meet this condition shall not be grounds for refusal to submit to urine testing.
 - iv. Respondent shall attend monthly face-to-face meetings with the Physicians Health Program for the first year of this order, and then at a frequency to be determined by the Medical Director of the Physicians Health Program.
 - v. Respondent shall not consume or administer to himself any mood altering chemicals or controlled

substances unless such medication is prescribed by a treating physician who has been informed of this history with alcohol and prescribes for a legitimate medical purpose. If any controlled dangerous substance is taken upon prescription from a physician, Respondent shall notify the Physicians Health Program of that fact before the next urine sample is submitted, and shall cause any treating physician to transmit his or her medical record to the Physicians Health Program and the Board Office.

vi. Respondent shall become familiar with all foods, food additives or other products {such as poppy seeds) which may affect the validity of urine screenings, be presumed to possess that knowledge, and shall refrain from the use of such substances. Respondent specifically agrees that ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

vii. Respondent shall be responsible to ensure that the Physicians Health Program shall supply reports every ninety (90) days beginning on the "filed" date of this Order to the Board regarding his progress with the monitoring program and at work.

viii. Respondent shall obtain the agreement of the Physicians Health Program via a signature of its representative on this Order to notify the Board within 24 hours of its receipt of information of any slip or relapse of impairment, including but not limited to any positive urine screen or failure to appear for urine monitoring or any scheduled appointment or any discontinuance of the Physicians Health Program rehabilitation program whether initiated by Dakshkumar B. Patel or by the Physicians Health Program.

ix. Dakshkumar B. Patel expressly waives any claim to privilege or confidentiality that he may have concerning reports and disclosures to the Board, and use by the Board of that information in license proceedings regarding respondent, by the urine monitoring program, the Physicians Health Program, AA/NA, 12 step, or any other entity involved in his rehabilitation program.

x. Respondent shall notify a responsible official (approved in advance by the Physicians Health Program), at his place of employment, at each and every facility at which he plans to practice medicine that he has entered

into this Order. Such individual shall be in contact with respondent on a daily basis at work and by his signature on this document authorizes each such individual to submit to the Physicians Health Program quarterly reports and to notify the Board and the Physicians Health Program immediately (within 24 hours) orally and in writing, at the Physicians Health Program and at the Board office at 609-826-7100, P. O. Box 183, 140 East Front Street, Trenton, New Jersey 08625, of any behavior or conduct suggestive of substance abuse or behavior indicative of violation of the laws regarding controlled substances or in violation of this Order. Respondent shall provide the Board with the identity, address and qualifications of the individual to whom he has provided the notice required by this paragraph. He shall provide a copy of this Order to that designated member of the staff of his employer.

xi. All costs associated with the Physicians Health Program urine monitoring and employment monitoring program outlined above shall be the responsibility of, and paid directly by Dakshkumar B. Patel.

xii. Respondent consents to quarterly face-to-face meetings with the Medical Director of the New Jersey State Board of Medical Examiners.

xiii. Respondent shall remain in aftercare with Dr. Washton.

2. Respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that respondent has failed to comply with any of the conditions set forth above, any other provision of this Order, or any report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of drug abuse.

3. Respondent shall have the right to apply for removal of the automatic suspension on five (5) days notice but in such